

Michael G. Hanson

1953

Dec. 29

NEW HAMPSHIRE LAW LIBRARY

SEP 03 1998

CONCORD, N.H.

Mr. John Langille,
Executive Administrator,
New Hampshire State Hospital
100 West Street
Concord, New Hampshire

Dear Sir:

[You have asked for an opinion from this office relative to the question of whether the State Hospital must apply for and receive permission from the City of Concord to construct a parking lot on the State Hospital grounds.] It is my understanding that the parking lot in question is now completed, and the City of Concord, through the City Engineer, has informed you that by constructing this parking lot without first securing the city's approval the State of New Hampshire has violated the provisions of a city zoning ordinance. It is further my understanding that the City Engineer has requested that you file appeal papers with the Planning Board.

[It is the opinion of this office that city ordinances do not apply to state-owned land and buildings. Generally speaking, the state is not subject to legislative enactments of a municipal corporation, and the property of the state and its agencies is immune from municipal laws and regulations. 62 N.H. 207. The power of the state to exempt from municipal regulation in the absence of action on the part of the state of the subject is well established. 62 N.H. 207. Municipal Government, G. M. and other cited. No law is applicable to Concord, the state has never waived its right to regulate its own property either through granting to the City of Concord the general right to enact municipal ordinances or by other express statutory provision.]

C O P Y

Mr. John Langmaid

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The Legislature has enacted laws dealing with the State Hospital, and the municipality, which in turn is a creature of the state, has not been granted and does not possess the power and authority to override the sovereignty of the State of New Hampshire with respect to the use of this property for governmental purposes.

Therefore, it is suggested that the appeal papers be returned to the City Engineer with the information that it is the opinion of this office that such a permit is not required.

Very truly yours,

Arthur H. Dean, Jr.
Assistant Attorney General

10-29-53